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OFFICE OF PETITIONS

In re Patent No. 6,736,911
Akinori Ro et al.
Issue Date: May 18, 2004
Application No. 10/019,416
Filed: December 21, 2001
Atty Docket No. 4296/PCT

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: LETTER REGARDING
: PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This letter is in response to the "REQUEST FOR REVIEW OF PTA DETERMINATION," filed August 31, 2004, notifying the Office of an error in patentees favor, in the determination of patent term adjustment.

The request is GRANTED.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of TWELVE (12) days.

Patentees are given **thirty (30) days** to respond to this decision. No extensions of time will be granted under § 1.136(a).

On May 18, 2004, the above-identified application matured into U.S. Patent No. 6,736,911. The patent issued with a Patent Term Adjustment of 24 days. Patentees submit that a supplemental declaration was submitted March 31, 2004, after the mailing of the Notice of Allowance, not April 12, 2004 as indicated in PAIR.

A review of the application history confirms that the patent term adjustment of 24 days indicated on the patent is in error. The application was entitled to a patent term adjustment of 61 days for Office delay in mailing a first notification under 35 U.S.C. 132 on April 23, 2003, fourteen months and 61 days after the filing date of the application, December 21, 2001, within the meaning of § 1.703(a)(1). Pursuant to § 1.704(c)(10), the PTA was reduced by 37 days for applicants' filing of a Supplemental Declaration after the mailing of the notice of allowance. Thus, as stated by patentee, the patent indicates an entitlement to a PTA of twenty-four (24) days.

However, the patent incorrectly shows a reduction of 37 days for applicants' filing a submission after the Notice of Allowance was mailed on January 13, 2004. The incorrect adjustment was calculated using the date of submission of the Supplemental Declaration as April 12, 2004, rather than March 31, 2004 which is a total of 49 days and not 37 days.

In view thereof, the patent term adjustment indicated on the patent should have been twelve (12) days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks Patentees for their good faith and candor in bringing this to the attention of the Office.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by twelve (12) days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Karin A. Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Draft Certificate of Correction
Copy of Adjusted PTA Calculation